



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

August 17, 1989

Honorable Anna L. Cavazos Ramirez
Webb County Attorney
1104 Victoria
Laredo, Texas 78040

LO-89-65

Dear Ms. Ramirez:

You ask several questions about the authority of the commissioners court to construct a cattle guard on a county road in Webb County. You ask:

1. Are cattleguards deemed obstructions by law unless constructed pursuant to Article 6702-1, section 2.007 (V.A.C.S.)?
2. May Webb County authorize the construction of cattleguards across county roads?
3. Assuming erection of a cattleguard would be in the best interest of the citizens of the county, may Webb County pay for and construct such a cattleguard across a county road?

Subsection 2.007(a) of article 6702-1 (the County Road and Bridge Act) provides that the commissioners court shall classify all public roads in the county as first-class, second-class, or third-class roads based on the width of the road.

Subsections (b), (d), and (e) of section 2.007 address the construction of cattle guards across county roads. These provisions are applicable to counties of less than 60,000 inhabitants. Subsection (b) permits the commissioners court of an affected county to authorize construction of a cattle guard on certain roads and provides that such cattle guards are not obstructions on the roads. Subsection (e) authorizes the commissioners court in a

county to which the section applies to construct and pay for cattle guards if the court believes the construction to be in the best interest of the public.

You state that Webb County has a population of more than 60,000 inhabitants according to the most recent federal census. Therefore, the provisions of section 2.007 authorizing cattle guards are inapplicable to Webb County.

Article V, section 18, of the Texas Constitution provides that the commissioners court "shall exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed." A county has only the powers specifically conferred upon it by the constitution or statutes or which may reasonably be implied therefrom. Canales v. Laughlin, 214 S.W.2d 451 (Tex. 1948). We have not found any statutory or constitutional authority to construct cattle guards other than the provisions discussed herein. Therefore, Webb County may not construct cattleguards on county roads. See generally Attorney General Opinions M-189 (1968); O-4695 (1942). In light of our answer to your question about the authority of Webb County to construct cattle guards on county roads, we need not answer your other questions.

Yours very truly,

Rick Gilpin
Rick Gilpin
Chairman, Opinion Committee

Prepared by Karen C. Gladney

APPROVED: OPINION COMMITTEE

RG/KG/mc

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